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REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS FORTY-EIGHTH SESSION

Report of the Sixth Committee

Rapporteur: Ms. Pascaline BOUM (Cameroon)

I. INTRODUCTION

1. At its 3rd plenary meeting, on 20 September 1996, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-first session the item entitled "Report of the International Law Commission on the work of its forty-eighth session" and to allocate it to the Sixth Committee.

2. The Sixth Committee considered the item at its 31st to 42nd, 48th and 49th meetings, from 4 to 8 and 11 to 15 and on 27 November 1996. The summary records of those meetings contain the views of the representatives who spoke during the Committee's consideration of the item (A/C.6/51/SR.31-42, 48 and 49).

3. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the International Law Commission on the work of its forty-eighth session;[1]

(b) Note by the Secretary-General containing the text of the draft articles adopted by the International Law Commission on topics considered at its forty-eighth session (A/51/332 and Corr.1);

[1] Official Records of the General Assembly, Fifty-first Session, Supplement No. 10 and corrigendum (A/51/10 and Corr.1).

(c) Report of the Secretary-General containing comments received from Governments with regard to paragraph 8 of General Assembly resolution 50/45 of 11 December 1995 (A/51/338 and Add.1);

(d) Report of the Secretary-General containing comments received from Governments with regard to paragraph 10 of resolution 50/45 (A/51/365).

4. The Chairman of the International Law Commission at its forty-eighth session introduced the report of the Commission: chapters I and II at the 31st meeting, on 4 November; chapter III at the 34th meeting, on 7 November; chapters IV, V and VI at the 37th meeting, on 11 November; and chapter VII at the 40th meeting, on 14 November. At the 41st meeting, on 15 November, the Chairman of the Commission made a statement in the light of the debate.

II. CONSIDERATION OF DRAFT RESOLUTION A/C.6/51/L.17

5. At the 48th meeting, on 27 November, the representative of India introduced a draft resolution entitled "Report of the International Law Commission on the work of its forty-eighth session" (A/C.6/51/L.17), which had been proposed by the Chairman.

6. At the same meeting, the Committee adopted draft resolution A/C.6/51/L.17 without a vote (see para. 8).

7. The representative of Lebanon made a statement in explanation of position (see A/C.6/51/SR.48).

III. RECOMMENDATION OF THE SIXTH COMMITTEE

8. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Report of the International Law Commission on the work of its forty-eighth session

The General Assembly,

Having considered the report of the International Law Commission on the work of its forty-eighth session,[2]

Emphasizing the importance of furthering the progressive development of international law and its codification as a means of implementing the purposes and principles set forth in the Charter of the United Nations and in the

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[2] Official Records of the General Assembly, Fifty-first Session, Supplement No. 10 and corrigendum (A/51/10 and Corr.1).

Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,[3]

Emphasizing also the role of the International Law Commission in the fulfilment of the objectives of the United Nations Decade of International Law,

Recognizing the desirability of referring legal and drafting questions to the Sixth Committee, including topics that might be submitted to the International Law Commission for closer examination, and of enabling the Sixth Committee and the Commission further to enhance their contribution to the progressive development of international law and its codification,

Recalling the need to keep under review those topics of international law which, given their new or renewed interest for the international community, may be suitable for the progressive development and codification of international law and therefore may be included in the future programme of work of the International Law Commission,

Stressing the usefulness of structuring the debate on the report of the International Law Commission in the Sixth Committee in such a manner that conditions are provided for concentrated attention on each of the main topics dealt with in the report,

Wishing to enhance further the interaction between the Sixth Committee as a body of government representatives and the International Law Commission as a body of independent legal experts, with a view to improving the dialogue between the two organs,

1. Takes note of the report of the International Law Commission on the work of its forty-eighth session;[2]

2. Expresses its appreciation to the International Law Commission for the work accomplished at the forty-eighth session, in particular for completing the final draft articles on the draft Code of Crimes against the Peace and Security of Mankind and the provisional draft articles on State responsibility, and draws the attention of the States participating in the Preparatory Committee for the Establishment of an International Criminal Court to the relevance of the draft Code to their work;

3. Requests the Secretary-General to invite Governments to present, before the end of the fifty-third session of the General Assembly, their written comments and observations on action which might be taken in relation to the draft Code of Crimes against the Peace and Security of Mankind;

4. Recommends that, taking into account the comments of Governments, whether in writing or expressed orally in debates in the General Assembly, the International Law Commission should continue its work on the topics in its current programme;

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[3] Resolution 2625 (XXV), annex.

5. Draws the attention of Governments to the importance, for the International Law Commission, of having their views on the draft articles on State responsibility adopted on first reading by the Commission, and urges them to present in writing their comments and observations by 1 January 1998, as requested by the Commission;

6. Encourages Governments that may wish to do so to provide their comments and observations in writing on the report of the Working Group on International Liability for Injurious Consequences Arising out of Acts not Prohibited by International Law annexed to the report of the International Law Commission in order that the Commission may, in the light of the report of the Working Group and such comments and observations as may be made by Governments and those that have been made in the Sixth Committee, consider at its forty-ninth session how to proceed with its work on the topic and make early recommendations thereon;

7. Invites States and international organizations, particularly those that are depositaries, to answer promptly the questionnaire prepared by the Special Rapporteur on the topic concerning reservations to treaties;

8. Takes note of the completion of the preliminary study of the topic "State succession and its impact on the nationality of natural and legal persons", and requests the International Law Commission to undertake the substantive study of the topic entitled "Nationality in relation to the succession of States" in accordance with the modalities provided for in paragraph 88 of its report, and invites Governments to submit comments on the practical problems raised by succession of States affecting nationality of legal persons;

9. Takes note with appreciation of paragraphs 143 to 244 of the report of the International Law Commission concerning its procedures and working methods;

10. Takes note of the comments of the International Law Commission on the question of a split session, as presented in paragraphs 228 to 233 of its report;

11. Encourages the International Law Commission, in relation to its internal matters, to take decisions which could contribute to its efficiency and productivity;

12. Takes note of the decision of the International Law Commission contained in paragraph 256 of its report on the duration of its next session;

13. Invites the International Law Commission further to examine the topics "Diplomatic protection" and "Unilateral acts of States", and to indicate the scope and the content of the topics in the light of the comments and observations made during the debate in the Sixth Committee on the report and any written comments that Governments may wish to submit;

14. Requests the International Law Commission to continue to pay special attention to indicating in its annual report, for each topic, those specific issues, if any, on which expressions of views by Governments, either in the Sixth Committee or in written form, would be of particular interest in providing effective guidance for the Commission in its further work;

15. Reaffirms its previous decisions concerning the role of the Codification Division of the Office of Legal Affairs of the Secretariat and those concerning the summary records and other documentation of the International Law Commission;

16. Once again expresses the wish that seminars will continue to be held in conjunction with the sessions of the International Law Commission and that an increasing number of participants from developing countries will be given the opportunity to attend those seminars, appeals to States that can do so to make the voluntary contributions that are urgently needed for the holding of the seminars, and requests the Secretary-General to provide the seminars with adequate services, including interpretation, as required;

17. Requests the Secretary-General to forward to the International Law Commission, for its attention, the records of the debate on the report of the Commission at the fifty-first session of the General Assembly, together with such written statements as delegations may circulate in conjunction with their oral statements, and to prepare and distribute a topical summary of the debate, following established practice;

18. Also requests the Secretary-General to make appropriate arrangements to commemorate the fiftieth anniversary of the establishment of the International Law Commission through a colloquium on the progressive development and codification of international law, to be held during the consideration in the Sixth Committee of the report of the Commission on the work of its forty-ninth session;

19. Recommends that the debate on the report of the International Law Commission at the fifty-second session of the General Assembly commence on 27 October 1997.